25.7.2006 Present: Mr. Ramakant Sharma, counsel for the petitioner.

Mr. Rajan Diwan, Addl.A.G., for the State-respondent.

CrMP(M) No. 425 of 2006.

The petitioner has approached this Court for grant of bail under Section 439 Cr.P.C in respect of FIR No. 77 of 2006 dated 27.4.2006 lodged against the petitioner under Section 376,120-B, 506 and 229 IPC at Police Station, Gagret.

Brief facts of the case are that the prosecutrix (name withheld) are that the prosecutrix who is now alleged to be about 18 years old made a complaint to the police on 27.4.2003 that the petitioner- accused has been sexually exploiting and abusing the prosecutrix since May, 2003 when she was below 16 years of age.

According to the prosecutrix one Shri Din Dayal Sood was constructing a house near the house of the prosecutrix parents. The petitioner Vijay Kumar Sood who is a nephew of Din Dayal Sood had come to look after the construction of the said house. Thereafter he started visiting the house of the prosecutrix and one day when her family members were not in the house, he raped her. He also threatened her that she should not disclose this fact to anybody. The prosecutrix further alleges that thereafter also the petitioner continued to sexually exploit her and on 2.11.2005 the accused along with his daughter came to the house of the prosecutrix and asked her to accompany her to Kullu and Manali.

The prosecutrix accompanied them. and on the way they stayed in a hotel at Mandi. At night the daughter of the accused gave the prosecutrix a glass of milk and after she drank the milk, she became unconscious. In the morning, when the prosecutrix woke up, she found that her string (Nara) of her salwar was open and her under clothes were also missing. She felt that she had been raped throughout the night. Again the accused threatened her that in case she discloses this fact to anybody, he would bring Gundas to teach her a lesson. On 24.3.2006, the accused showed her obscene pictures in which she was shown undressed and having sex with the accused. A CD had been prepared and on the basis of the CD, the accused wanted to exploit her. On the same date i.e. on 24.3.2006 itself, the petitioner-accused was allegedly beaten up by the prosecutrix and her family members and a FIR was lodged against them by the petitioner under Section 323, 506 and 307 IPC.

Mr. Ramakant Sharma, learned counsel for the petitioner has contended that the present FIR was lodged on 27.4.2006 and more than one month after the earlier FIR of 24.3.2006 and it is only a counter blast to the complaint made by the petitioner. He further submits that the petitioner is aged 58 years and the entire investigation is complete and, therefore, he may be enlarged on bail.

I have gone through the entire police record and I find that even without going into the question whether the prosecutrix was a minor when she first had sexual intercourse with the petitioner or not and even without going into the question as to whether the prosecutrix was a consenting party, the mere fact that the accused prepared a CD showing the prosecutrix in a compromising position with him is sufficient to indicate at this stage that he wanted to blackmail this young girl. Petitioner-accused is 58 years whereas the prosecutrix is only about 18 years. She was young enough to be his daughter or even a grand-daughter. The fact that the accused is alleged to have prepared a blue CD is sufficient, in my opinion to raise a presumption that the petitioner was wanting to blackmail the prosecutrix.

In the present case the prosecutrix had made a specific allegation that the petitioner was blackmailing her into performing sex on the basis of the CD so prepared. Thus, it cannot be said that the petitioner is such a person who shall not use the liberty of bail or tamper with or influence the prosecution evidence. In this view of the matter, in my opinion, no ground is made out for grant of bail. Accordingly, the bail petition is rejected.

July 25, 2006. (Deepak Gupta), J.
s.